REMARKS

By this amendment applicant proposes to cancel without prejudice claims 21 and 48, and their dependent claims 22-28, 49-56, and 99-114. Claim 94 has also been cancelled without prejudice.

Claims 21, 29, 39, 45, 48, 60, 62, 65, 68, 69, 93, and 96 stand rejected under 35. U.S.C. 101. The rejection of claims 21 and 48, is moot in view of the cancellation of those claims. The remaining rejections are respectfully traversed. Claim 29 has been amended per the Examiner's suggestion to recite that the means for receiving an access request, the means for transmitting an access enabling message, and the means for compiling a report are a computer. Claim 39 has been amended to recite a payment apparatus. Claim 45 has been amended to recite that a physical processor analyzes the current data and the historical data. Claim 60 has been amended to recite that steps of communicating data, receiving an access request, transmitting an access enabling message, and transmitting data are performed by a computer. Claim 62 has been amended to recite that the steps of receiving an access request message, transmitting an access enabling message to the remote party, compiling a report from the accessed database, and transmitting the compiled report are performed on a computer. Claim 65 has been amended to recite that the means for receiving an access request, means for transmitting an access enabling message, and means for compiling a report comprise a computer. Claim 68 has been amended to recite that a communications network is used to locating the remote party in a seat, that the steps of communicating data, receiving an access request message, transmitting an access enabling message, and transmitting data are performed by a computer. Claim 69 has been amended to recite that the computer receives the decision transmitted from the remote terminal and affects the entertainment event in accordance with the decision. Claim 96 has been amended to recite that a computer is used to transmit data regarding a decision or event, and that the decision transmitted from the remote terminal is used to affect the status of the creator, the financial reward to the creator, the penalty to the creator, or the choice of responses.

It is respectfully submitted that the above-discussed amendments fully overcome the rejection under 35 U.S.C. 101, and that the rejection should be withdrawn.

Claims 1-10, 16, 21, 22, 25, 28-34, 38-40, 44-46, 48-55, 60-70, 88 and 93-99 stand rejected under 35 U.S.C. 103(a) over ESPN.COM in view of Junkin. These rejections are respectfully traversed for the reasons set forth below.

ESPN.COM simply discloses web pages for displaying a profile and statistics about a sports player. Junkin discloses a system which allows a participant to participate in a simulated sports league, e.g. a fantasy NASCAR race, in real time.

With respect to claim 1 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed step wherein the computer provides the remote user with the ability in real time or near real time to submit a decision to a central database, the decision being used to effect the status of at least one sports player.

With respect to claim 29 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed computer communications network providing the remote party with the ability in real time or near real time to submit a decision to a central database, the decision being used to effect the status of the sports player.

With respect to claim 39 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed computer providing the remote user with the ability in real time or near real time to submit a decision to a central database, the decision being used to effect the status of the player.

With respect to claim 45 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed system which provides the remote user with the capability in real time or near real time after receiving the analysis to respond to the analysis and submit a decision to a central database, the decision being used to effect the status of said player.

With respect to claim 60 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed method wherein the remote party sends a response to the database, the response effecting the live event.

With respect to claim 62 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed method wherein a communications network between the central database processing resource and the remote party is used for locating the remote party in a seat associated with a live sports event.

With respect to claim 65 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed apparatus which provides for the remote party being located in a spectator seat to be present to view an actual sports event related to the data.

With respect to claim 68 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed step of using a communications network between the central database processing resource and the remote party for locating the remote party in a seat associated with a live event.

With respect to claim 69 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed step of the remote party transmitting a decision from a remote terminal via a communications link to the database, the decision being at least one relating to a status of the performer or participant in the entertainment event, a financial reward to the performer or participant, a penalty to the performer or participant, or a choice of one of a plurality of responses to a query from the manager of the entertainment event.

With respect to claim 93 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed step of the remote party transmitting a decision from a remote terminal via a communications link to the database, the decision being at least one relating to a status of the creator, a financial reward to the creator, a penalty to the creator, or a choice of one of a plurality of responses to a query from the manager.

With respect to claim 96 and its dependent claims, neither the ESPN.COM reference nor the Junkin reference teaches the claimed step of the remote party transmitting a decision from a remote terminal via a communications link to the database, the decision being at least one relating to a status of the creator, a financial reward to the creator, a penalty to the creator, or a choice of one of a plurality of responses to a query from the manager. The references further fail

to teach the step of using the decision transmitted from the remote terminal to affect at least one of: the status of the creator, the financial reward to the creator, the penalty to the creator, or the choice of one of a plurality of responses to a query from the manager.

Thus, applicant has shown above that elements of the independent claims are not disclosed in the prior art. It is well established that, in order to show obviousness, all limitations must be taught by the prior art. In Re Royka, 180 U.S.P.Q. 580, 490 F.2d 981 (CCPA 1974); MPEP § 2143.03. It is error to ignore specific limitations distinguishing over the references. In Re Boe, 184 U.S.P.Q. 38, 505 F.2d 1297 (CCPA 1974); In Re Saether, 181 U.S.P.Q. 36, 492 F.2d 849 (CCPA 1974); In Re Glass, 176 U.S.P.Q. 489, 472 F.2d 1388 (CCPA 1973).

Furthermore, a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. KSR Int'l Co. v. Teleflex, 127 S.Ct 1727, 1741 (2007). As former Chief Judge Markey of the Federal Circuit has stated, "virtually all inventions are 'combinations', and … every invention is formed of 'old elements' …. Only God works from nothing. Man must work with old elements." H.T. Markey, *Why Not the Statute?* 65 J. Pat. Off. Soc'y 331, 333-334 (1983). The factfinder should be aware of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning. KSR Int'l Co. v. Teleflex, 127 S.Ct at 1742. In determining whether a claimed invention is an obvious combination of prior art references, it must be shown there is an apparent reason to combine the known elements in the fashion claimed. Id. at 1741. To facilitate review, this analysis should be made explicit. Id.

Dependent claims 11-15, 17, 18, 20, 23, 24, 26, 27, 35-37, 41-43, 47, 56-59, 71-87, 89-92, and 100-114 stand rejected under 35 U.S.C. 103 over ESPN.COM in view of Junkin, and further in view of Walker et al. The dependent claims are patentable for all of the same reasons discussed above with respect to the independent claims. The addition of the Walker et al. reference does nothing to cure the deficiencies discussed above.

In view of all of the above, it is respectfully submitted that the rejections under 35 U.S.C. 103 should be withdrawn.

It is submitted that the application is in condition for allowance and Notice that effect is respectfully requested. If the Examiner is of the opinion that a brief telephone conversation would be helpful in furthering allowance, she is invited to contact the undersigned at (407) 418-2356. The Commissioner is authorized to charge any deficiency, or credit any overpayment, that is due in connection with this filing to Deposit Account No.

Respectfully submitted,

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